

United States  
Circuit Court of Appeals

For the Ninth Circuit.

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TERRITORY OF ALASKA,

Appellant,

vs.

FIRST NATIONAL BANK OF FAIRBANKS,  
a Corporation,

Appellee.

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Transcript of Record.

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Upon Appeal from the United States District Court for the  
Territory of Alaska, Division Number Four.

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FILED

JAN 21 1930

PAUL P. O'BRIEN,  
CLERK



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**Circuit Court of Appeals**  
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS  
OF RECORD.

JOHN RUSTGARD, Attorney General of Alaska,  
and MORTON E. STEVENS,  
Attorneys for Plaintiff, Appellant.

JOHN A. CLARK,  
Attorney for Defendant, Appellee.

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In the District Court of the Territory of Alaska,  
Division No. 4, at Fairbanks.

No. 3198.

TERRITORY OF ALASKA,

Plaintiff,

vs.

FIRST NATIONAL BANK OF FAIRBANKS,  
a Corporation,

Defendant.

INFORMATION.

To the Honorable CECIL H. CLEGG, Judge of the  
District Court of Division No. 4, Territory of  
Alaska.

Plaintiff above named represents to this Honor-  
able Court:

I.

That defendant is and during all the time herein  
mentioned was a corporation, organized and doing

business as a national banking association at Fairbanks, Alaska.

## II.

That heretofore, to wit, during the year 1918 one Charles Clinton Rice deposited with defendant bank for safekeeping the following property, to wit:

12—\$100.00—War Savings Certificates of 1918, due Jan. 1, 1923, Nos. 05280369-79 and 20424501 .....	\$1195.00
(Cert. #05280370, one \$5.00 stamp short.)	
10—\$100.00—War Savings Certificates of 1919, due Jan. 1, 1924, Nos. 1214548-56 and 121- 4558, Incl. ....	1000.00
3—\$100.00—Fourth Liberty Loan 4¼% Bonds of 1933-38, Nos. A01243451, B01243452 and C01243453, with all cou- pons attached; also tem- porary bond coupons 10/ 15/19, 4/15/20 and 10/ 15/20 .....	300.00
3—\$ 50.00—Fourth Liberty Loan 4¼% Bonds of 1933-38, Nos. A01212411, B01212412 and C01212413, with all cou- pons attached; also tem- porary bond coupons 10/ 15/19, 4/15/20 and 10/ 15/20 .....	\$150.00



1- 50.00—Third Liberty Loan 4 $\frac{1}{4}$ %  
Bond of 1928, Number  
1367905, with Sept. 15,  
1920, and all subsequent  
coupons attached; also  
temporary bond coupons  
9/15/19 and 3/15/20..... 50.00

[1\*]

That all of said property is still in the possession of defendant, that the same has not been called for by said Charles Clinton Rice, his heirs, assigns, or representatives, or by anybody else, and said defendant has not heard from or of said Charles Clinton Rice for more than ten years last past.

### III.

That more than seven years ago the said Charles Clinton Rice died at some time and place unknown to plaintiff, that he left no heirs and no will, and no administrator has been appointed for his estate.

### IV.

That the property above described and now in the possession of defendant has escheated to and become the property of plaintiff.

WHEREFORE plaintiff prays that it may please this Honorable Court to adjudge and decree:

1. That the above-described property has escheated to and is the property of the Territory of Alaska, and that the same be delivered to the treasurer of the territory as provided by law.

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\*Page-number appearing at the foot of page of original certified Transcript of Record.

2. That plaintiff have its costs and disbursements herein and such other and further relief as to this Honorable Court may seem just and proper.
3. That *on order* issue by this Honorable Court requiring all persons interested in the estate of Charles Clinton Rice to appear and show cause, if any they have, why the title to the above-described property should not vest in plaintiff.

JOHN RUSTGARD,  
Attorney General of Alaska.

United States of America,  
Territory of Alaska,—ss.

George A. Parks, being duly sworn, deposes and says, that he is the Governor of the Territory of Alaska, that he has [2] read the foregoing information, knows the contents thereof and believes the same to be true.

GEO. A. PARKS.

Subscribed and sworn to before me this 23 day of May, 1929.

[Seal]

HARRY SPERLING,  
Notary Public.

My commission expires May 23, 1931.

[Endorsed]: Filed Jun. 5, 1929. [3]

[Title of Court and Cause.]

SUMMONS.

To the First National Bank of Fairbanks, a Corporation, Defendant, GREETING:

IN THE NAME OF THE UNITED STATES OF AMERICA, you are hereby commanded to be and appear in the above-entitled court, holden at Fairbanks in said division of said Territory and answer the information filed against you in the above-entitled action within thirty days from the date of service of this summons and a copy of said information upon you, and if you fail so to appear and answer for want thereof the plaintiff will apply to the Court for the relief demanded in said information, a copy of which is served herewith.

IN WITNESS WHEREOF I have hereto set my hand and affixed the seal of the above court, at Fairbanks, Alaska, this 5th day of June, A. D. 1929.

[Seal]

ROBT. W. TAYLOR,

Clerk.

By E. A. Tonseth,

Chief Deputy Clerk.

[Endorsed]: Filed June 7, 1929.

Fourth Div., Dist. of Alaska, received Jun. 7, 1929. Office of U. S. Marshal, Fairbanks, Alaska. Civ. 6—70.

Marshal's Docket No. 2380. Writ docketed June 7th, 1929. Return docketed June 7th, 1929. [4]

[Title of Court and Cause.]

MARSHAL'S RETURN ON SUMMONS.

I, Lynn Smith, United States Marshal for the Territory of Alaska, Fourth Division, do hereby certify and return that I received the hereto attached original summons at Fairbanks, Alaska, on the 7th day of June, 1929, and that thereafter on the same day, I duly served the same upon the First National Bank of Fairbanks, at Fairbanks, Alaska, by and through Geo. Hutchinson, president of said bank, by delivering to Geo. Hutchinson personally a copy of the summons, together with a copy of the information.

Dated at Fairbanks, Alaska, this 7th day of June, 1929.

Marshal's Fees: \$3.00.

LYNN SMITH,  
United States Marshal.  
By JOHN J. BUCKLEY,  
Deputy. [5]

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[Title of Court and Cause.]

ORDER TO SHOW CAUSE.

To Whom It may Concern:

An information has been filed in the office of the Clerk of court in the above-entitled cause setting forth that Charles Clinton Rice died intestate more than seven years ago leaving no heirs but leaving War Savings Certificates and United States Bonds

for safekeeping in the First National Bank of Fairbanks, Alaska, the par value of which is in excess of \$2,695.00; and alleging that the same has escheated to and become the property of the Territory of Alaska, and praying for a decree adjudging and decreeing such property and estate the property of the Territory of Alaska.

NOW, THEREFORE, all persons interested in the estate of said Charles Clinton Rice, or the said property above mentioned, are required to appear and show cause, if any they have, on or before the 25th day of July, 1929, at 2 P. M., why the title to said estate or said property should not vest in the territory.

Dated this 7th day of June, 1929.

CECIL H. CLEGG,  
District Judge.

[Endorsed]: Filed Jun. 7, 1929.

Jun. 7, 1929. Entered in Court Journal No. 17,  
page 527. [6]

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[Title of Court and Cause.]

ANSWER.

Comes now the defendant above named and for answer to the information filed in the above-entitled cause admits, denies and alleges as follows, to wit:

I.

- (1) Admits the allegations of Paragraph 1.
- (2) For answer to Paragraph 2, defendant ad-

mits that it has in its possession the various securities described in said paragraph, but denies that all said securities were left with it by the said Charles Clinton Rice in the year 1918, and alleges that a portion thereof was deposited with said bank on 13 July, 1918, and a portion on 3 June, 1919; admits that it has not had any communication from said Charles Clinton Rice, his heirs, assigns, or representatives since said 3 June, 1919.

(3) Answering the allegations of Paragraph 3, this defendant alleges that it has no knowledge or information sufficient to enable it to form a belief, and basing its denial on such lack of information and belief, denies the same.

(4) Answering the allegations of Paragraph 4, defendant admits that said property is now in its possession, but denies each and every other matter and thing therein set forth.

## II.

For a further affirmative answer and defense to plaintiff's information, defendant alleges as follows, to wit:

(1) That there is a nonjoinder of parties defendant in said action, in that neither said Charles Clinton Rice, his heirs, [7] executors, administrators, successors in interest, or assigns, are joined as parties defendant in said action, and that, without such joinder, this Court has no jurisdiction to adjudicate the ownership of said securities in this action.

WHEREFORE, defendant prays that plaintiff take nothing by its said action and that defendant go hence with its costs incurred herein.

Dated at Fairbanks, Alaska, on this the 24 day of September, A. D. one thousand nine hundred twenty-nine.

JOHN A. CLARK,  
Attorney for Defendant.

United States of America,  
Territory of Alaska,—ss.

George B. Wesch, being first duly sworn according to law, on his oath deposes and says: I am the duly appointed, qualified, and acting trust officer of the First National Bank of Fairbanks, Alaska, defendant in the above-entitled action, and make this verification in behalf of said defendant; I have read the foregoing answer, know the contents thereof, and the matters and things therein set forth are true, as I verily believe.

GEORGE B. WESCH.

Subscribed and sworn to before me on this the 24 day of September, A. D. one thousand nine hundred twenty-nine.

[Seal] JOHN A. CLARK,  
Notary Public in and for the Territory of Alaska.

My commission expires 24 April, 1930.

[Endorsed]: Due service hereof admitted this 9-24-1929.

JOHN RUSTGARD,  
Attorney for Plaintiff.

Filed Sep. 24, 1929. [8]

In the District Court for the Territory of Alaska,  
4th Division.

No. 3198.

TERRITORY OF ALASKA,

Plaintiff,

vs.

FIRST NATIONAL BANK OF FAIRBANKS,  
a Corporation,

Defendant.

#### JUDGMENT OF NONSUIT.

This matter coming on regularly for trial before this Court on the 26th day of September, A. D. one thousand nine hundred twenty-nine, the plaintiff appearing by and through Hon. John Rustgard, Attorney General for the Territory of Alaska, and the defendant appearing by and through its attorney John A. Clark, and oral and documentary evidence having been introduced on behalf of plaintiff, and at the close of plaintiff's case defendant having moved for a nonsuit as against plaintiff and for the dismissal of said action by reason of the failure of plaintiff to prove the allegations of its complaint, and said matter having been argued and submitted to this Court, and this Court having granted said motion,—

Now, therefore, it is ORDERED, ADJUDGED  
AND DECREED:



(1) That plaintiff has failed to prove the allegations of its complaint on file herein.

(2) That said action is hereby dismissed without prejudice and at plaintiff's costs.

Done at Fairbanks, in the division and territory aforesaid on this, the 4th day of October, A. D. one thousand *nine twenty-nine*.

CECIL H. CLEGG,  
District Judge.

[Endorsed]: Filed Oct. 4, 1929.

Entered in Court Journal No. 17, page 589. [9]

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[Title of Court and Cause.]

#### BILL OF EXCEPTIONS.

BE IT REMEMBERED that heretofore and on Thursday, the 26th day of September, 1929, at the hour of 2:00 o'clock P. M., the above-entitled cause came on regularly for trial before the Honorable Cecil H. Clegg, the Judge of the above-entitled court.

The plaintiff appeared by John Rustgard, Esq., Attorney General of Alaska.

The defendant appeared by John A. Clark, Esq., its attorney.

Whereupon the following proceedings were had and testimony was taken, to wit: [10]

TESTIMONY OF GEORGE B. WESCH, FOR  
PLAINTIFF.

GEORGE B. WESCH, called as a witness for plaintiff, after being first duly sworn, testified as follows:

## Direct Examination by Mr. RUSTGARD.

I am one of the officers of the First National Bank of Fairbanks. As such I hold the position of assistant cashier and trust officer. As such my duties are to care for items which are left with the bank for safekeeping and other matters of that nature. I was with the bank from 1914 to 1920. I was then away from the bank five years and returned to the bank in 1925. I have been with the bank ever since. I do not know Charles Clinton Rice personally. I do not know whether any officer of the bank knew him. The bank holds on deposit the various securities described in plaintiff's information in this case. Those securities are properly and correctly described in plaintiff's complaint or information. I have checked the serial numbers of each and find them correct. The twelve \$100.00 War Savings Certificates mentioned in the first item matured and became payable in 1923. The ten \$100.00 War Savings Certificates of 1919 described in item number two matured in 1924. The three \$100.00 Fourth Liberty Loan  $4\frac{1}{4}$  interest bonds have not matured as yet. They are coupon bonds and the interest coupons are yet at-

(Testimony of George B. Wesch.)

tached. None of the interest coupons have been detached at any time. They have never been called for. The three \$50.00 Fourth Liberty Loan Bonds, 4 $\frac{1}{4}$  interest, referred to in fourth item are still in the possession of the bank with all coupons attached. The same is true of the one \$50.00 Third Liberty Loan Bond, 4 $\frac{1}{4}$  per cent interest mentioned in fifth item. It is still in possession of the bank with all coupons attached. [11]

These securities were deposited at two different times. The first lot were deposited July 13th, 1918. That is what consisted of \$1,195.00, face value, War Savings Stamps, your item number one. The second deposit occurred June 3d, 1919, which consisted of the Liberty Loan Bonds and ten full War Savings Certificates, which are the War Savings Stamps. That was the time all the Liberty Bonds were deposited.

The bank has never heard from Charles Clinton Rice since the time those deposits were made, so far as I know. The bank holds those securities for safekeeping. If the bank had heard from Mr. Rice I would have known it. I have tried to locate Mr. Rice within the last two years. I made inquiries at the postoffice where these War Savings Stamps were purchased and are recorded, and I also inquired at the probate court if the man had died or any record of his death and I inquired amongst individuals by the name of Rice who I thought might be acquainted with him.

(Testimony of George B. Wesch.)

These securities deposited by Mr. Rice are among the securities which our bank, through its president, Mr. Hutchinson, reported to the attorney general's office was property the owners of which had not been heard of by the bank for more than seven years.

Examination by the COURT.

I do not know anything about Rice personally. I do not know where he worked or lived. I do not know what his occupation was. Nor do I know whether he had any relatives [12] in the territory, nor do I know whether he was a permanent resident of the territory or just a transient.

Cross-examination by Mr. CLARK.

Frequently people come into the bank and leave packages or articles for safe keeping with the bank. We issue receipts to them and store the things away in the vault until called for. And this transaction, so far as our records show, was done in the ordinary course of business. It was not necessary for a person making such deposit to be a depositor in the bank or a customer of the bank.

Redirect Examination by Mr. RUSTGARD.

I have discussed this matter with other officers of the bank to try to ascertain who Rice was. I do not know of anybody who knows any more about Mr. Rice than I know. I do not know of anybody who can tell you anything about him.

It was then stipulated and agreed that Exhibit "A" hereto attached was published in the "Fairbanks News Miner" on the 5th of June, 1929, and that no response had been received by the attorney general's office to that notice. Exhibit "A" was then offered and received in evidence.

Plaintiff rested.

Mr. Clark then made the following motion: I ask that this information be dismissed and that a nonsuit be entered as against the territory by reason of their failure to prove the essential allegations of their complaint and [13] by reason of their failure to prove the matters necessary to be proven to entitle the territory of *have* escheated to it the property described in the information on file herein, upon the further ground that the proof utterly fails to show any right on the part of the territory to have this property escheated on two grounds: First, that there is no evidence of the death of Charles Clinton Rice; and, second, that there is no evidence that there—there has been no evidence introduced that he left no heir, both of which facts must be established before escheatment can take place and both of which is prerequisite to the territory obtaining any title to any of the property described in the information on file herein. That is the motion, if the Court please, and I would like to present my authorities.

Mr. RUSTGARD.—Counsel having raised the objection that the affidavit of publication of the Court's order of June 7, 1929, which is a part of

the record of this court, has not been offered in evidence, I now offer that affidavit of publication in evidence.

Mr. CLARK.—To which we object, if the Court please, upon two grounds: First, it comes too late after the case has been closed and the motion for nonsuit and dismissal of the action has been entered and, second, because it does not comply with the provisions of the law in that it is not addressed to the last owner of the property or to his heirs or to his heirs unknown, and that it is not in proper form or sufficient to bring any claimants in court.

The COURT.—I will overrule the objection and let the plaintiff reopen the case for the purpose of introducing this exhibit offered.

Mr. CLARK.—To which we note an exception.

The COURT.—Exception allowed. [14]

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PLAINTIFF'S EXHIBIT "B."

No. 3198.

Filed in the District Court, Territory of Alaska, 4th Division. Sept. 25, 1929. Robt. W. Taylor, Clerk. By E. A. Tonseth, Deputy.

TERRITORY OF ALASKA,

Plaintiff,

vs.

1st NATIONAL BANK,

Defendant.

AFFIDAVIT OF PUBLICATION.

United States of America,  
Territory of Alaska,  
Fourth Division,—ss.

Before me, the undersigned, a notary public, this day personally appeared A. H. Nordale, who, being first duly sworn, according to law, says that he is the printer of The Fairbanks Daily News-Miner, a newspaper published at Fairbanks, in said Fourth Division and Territory, and that the advertisement, of which the annexed is a true copy, was published in said paper on the 8th day of June, 1929, and once each week **THEREAFTER** for six (6) consecutive weeks, the last publication appearing on the 20th day of July, 1929, and that the rate charged thereon is not in excess of the rate charged private individuals, with the usual discounts.

A. H. NORDALE.

Subscribed and sworn to before me this 25th day of July, 1929.

[Notary Seal]

J. G. RIVERS,  
Notary Public.

My commission expires 2/19/30.

No. 3198. Filed in the District Court, Territory of Alaska, 4th Division. Sept. 25, 1929. Robt. W. Taylor, Clerk. By E. A. Tonseth, Deputy.

In the District Court of the Territory of Alaska,  
Division No. 4, at Fairbanks.

No. 3198.

TERRITORY OF ALASKA,

Plaintiff,

vs.

FIRST NATIONAL BANK OF FAIRBANKS,  
a Corporation,

Defendant.

### ORDER TO SHOW CAUSE.

To Whom It May Concern:

An information has been filed in the office of the Clerk of Court in the above entitled cause setting forth that Charles Clinton Rice died intestate more than seven years ago leaving no heirs but leaving War Savings Certificates and United States Bonds for safekeeping in the First National Bank of Fairbanks, Alaska, the par value of which is in excess of \$2695.00; and alleging that the same has escheated to and become the property of the Territory of Alaska, and praying for a decree adjudging and decreeing such property and estate the property of the Territory of Alaska.

Now Therefore, all persons interested in the estate of said Charles Clinton Rice, or the said property above mentioned, are required to appear and show cause, if any they have, on or before the 25th day of July, 1929, at 2 P. M. why the title to



said estate or said property should not vest in the Territory.

Dated this 7th day of June, 1929.

CECIL H. CLEGG,  
District Judge.

First Pub. June 8, 1929.

Last Pub. July 20, 1929. [15]

Mr. CLARK.—We now move at the close of all the plaintiff's evidence for the dismissal of the action and we make the motion on all the grounds heretofore urged and on the further ground—"

The COURT.—The Court is inclined to grant the motion on the ground that the proof is too meager to sustain a decree in the case, the Court being of the opinion that there must be some affirmative proof of the necessary facts warranting an escheatment. That is to say, that the person not only is dead but that he died intestate and that he died without heirs—leaving no heirs. I think the language of the statute requires some affirmative proof, however slight, on that subject and without testimony of that character, the Court would not be authorized to grant a decree. Accordingly, the motion for nonsuit will be granted and the case dismissed. [16]

## EXHIBIT "A."

## INFORMATION IS SOUGHT.

By the territorial officers concerning the following persons:

Edw. Johnson,  
 W. G. Morrison,  
 Shepard Bros.,  
 Joe Safernik,  
 Julius Meyers,  
 Charles Clinton Rice,  
 Gus Shores,  
 Dan Kooch.

Any person who can give any information as to where any of these people came from, where they went to, where they may be found, what became of them or where any of their friends or relatives may be found, will kindly write to the undersigned.

JOHN RUSTGARD,

Attorney General, Juneau, Alaska. [17]

This is to certify that the foregoing bill of exceptions contains all the evidence adduced and all the proceedings had upon the trial of the above-entitled cause, and it is hereby settled and allowed as the bill of exceptions herein.

Done this 13th day of November, 1929.

CECIL H. CLEGG,

District Judge.

O. K.—JOHN A. CLARK,

Atty. for Defdt.

[Endorsed]: Filed Oct. 24, 1929.

Refiled Nov. 13, 1929. [18]

[Title of Court and Cause.]

ASSIGNMENT OF ERRORS.

Comes now the plaintiff and files the following assignment of errors, upon which it will rely upon appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment made by the Honorable Court, on the 4th day of October, 1929, in the above-entitled cause:

I.

The court erred in its finding of fact and conclusion that "plaintiff has failed to prove the allegations of its complaint on file herein."

II.

The court erred in its finding and holding that the evidence introduced is not sufficient to entitle plaintiff to recover.

III.

The court erred in granting and sustaining [19] defendant's motion for a nonsuit against plaintiff and dismissing this action at plaintiff's costs.

IV.

The court erred in making and entering judgment herein in favor of defendant and against plaintiff.

JOHN RUSTGARD,

Attorney General of Alaska,

And MORTON E. STEVENS,

Attorneys for Plaintiff.

[Endorsed]: Filed Nov. 13, 1929. [20]

[Title of Court and Cause.]

PETITION FOR APPEAL.

The plaintiff herein, feeling itself aggrieved by the final judgment made and entered on the 4th day of October, 1929, in the above-entitled cause, wherein it is ORDERED, ADJUDGED AND DECREED that plaintiff has failed to prove the allegations of its complaint on file herein, and that said action be dismissed, without prejudice, at plaintiff's costs, and in making and entering final judgment accordingly, herein, does hereby appeal from said final judgment and decree to the United States Circuit Court of Appeals, for the Ninth Circuit, for the reasons specified in the assignment of errors, which is filed herewith, said plaintiff prays that this appeal be allowed and that a transcript of the record, proceedings and papers from which said final judgment and decree were made, duly authenticated, may be sent to said United States Circuit Court of Appeals for the Ninth [21] Circuit, at San Francisco, California, that said appeal be allowed to be taken without bond.

Dated this 13th day of November, 1929.

JOHN RUSTGARD,  
Attorney General of Alaska.  
And MORTON E. STEVENS,  
Attorneys for Plaintiff.

[Endorsed]: Filed Nov. 13, 1929. [22]

[Title of Court and Cause.]

ORDER ALLOWING APPEAL.

Now, on the 13th day of November, 1929, the same being one of the judicial days of the January, 1929, term of this court, holden at Fairbanks, Fourth Judicial Division, Territory of Alaska, this cause came on to be heard upon the petition of plaintiff for an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, and the Court being advised in the premises:

IT IS HEREBY ORDERED, that said plaintiff's appeal to the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, be, and the same is hereby allowed; that plaintiff be not required to file a cost bond or any bond herein.

CECIL H. CLEGG,  
District Judge.

[Endorsed]: Filed Nov. 13, 1929.

Entered in Court Journal No. 17, page 608. [23]

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[Title of Court and Cause.]

ADMISSION OF SERVICE OF PAPERS ON  
APPEAL.

Due service and receipt of copy is hereby admitted on the following papers on appeal in the above-entitled cause, to wit:

Bill of exceptions as amended and settled.

Assignment of errors.

Petition for appeal.

Order allowing appeal.

Citation on appeal.

Order extending return day on citation on appeal.

Stipulation of counsel relative to printing record.

Admission of service of papers on appeal.

Praecipe for transcript.

JOHN A. CLARK,

Attorney for Defendant and Appellee. [24]

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[Title of Court and Cause.]

#### CITATION ON APPEAL.

The President of the United States of America to the First National Bank of Fairbanks, a Corporation, Defendant Above Named, GREETINGS:

You are hereby cited and admonished to be and appear at the United States Circuit Court of Appeals, for the Ninth Circuit, to be holden at the city and county of San Francisco, State of California, within thirty (30) days from the date of this citation, pursuant to an order allowing an appeal, filed in the Clerk's office of the District Court for the Territory of Alaska, Fourth Judicial Division, on the 13th day of November, 1929, wherein the Territory of Alaska is plaintiff and appellant, and the above-named First National Bank of Fairbanks, a corporation, is defendant and appellee, to show

cause, if any there be, why the final judgment and decree made and entered in said cause on the [25] 4th day of October, 1929, as in said appeal mentioned, should not be reversed or corrected and why speedy justice should not be done to the parties in that behalf.

WITNESS the Honorable WILLIAM HOWARD TAFT, Chief Justice of the United States Supreme Court, of the United States of America, on this 13th day of November, 1929, and in the year of our Independence one hundred fifty-fourth.

CECIL H. CLEGG,

District Judge, Fourth Division, Alaska.

[Seal] Attest: ROBT. W. TAYLOR,

Clerk of the District Court, for the Territory of Alaska, Fourth Judicial Division.

Filed Nov. 13, 1929.

Entered in court journal No. 17, page 608. [26]

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[Title of Court and Cause.]

PRAECIPE FOR TRANSCRIPT OF RECORD.

To Robt. W. Taylor, Esq., Clerk of the Above-entitled Court:

You will please prepare a transcript of the record in the above-entitled cause, duly certify to the same, and cause the same to be filed in the office of the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, Cali-

fornia, upon the appeal heretofore perfected in said court:

Including in said transcript the following papers, to wit:

1. Summons.
2. Information.
3. Order to show cause.
4. Answer.
5. Judgment.
6. Bill of exceptions together with order settling same with date of filing.
- 6½. Affidavit publication of order to show cause.
7. Assignment of errors. [27]
8. Petition for appeal.
9. Order allowing appeal.
10. Original stipulation relative to printing record.
11. Original admission of service appeal papers.
12. Original citation on appeal.
13. Original order extending return day on citation.
14. Praeceptum for transcript.

This transcript to be prepared as required by law and the orders and rules of this court and of the United States Circuit Court of Appeals for the Ninth Circuit, and the rules of the Supreme Court; said transcript to be certified to by you, under the statute and rules governing procedure on appeal, and when so certified, the same to be filed with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, on or before the 10th day of January,



1930, pursuant to the order of this Court, extending the time within which to file said record.

JOHN RUSTGARD,  
Attorney General of Alaska,  
And MORTON E. STEVENS,  
Attorneys for Plaintiff and Appellant.

[Endorsed]: Filed Nov. 13, 1929. [28]

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[Title of Court and Cause.]

STIPULATION RELATIVE TO PRINTING  
RECORD.

IT IS HEREBY STIPULATED that in printing the papers and records to be used on appeal taken in the above-entitled cause, for the consideration of the United States Circuit Court of Appeals for the Ninth Circuit, the title of the court and cause on all papers shall be omitted, except on the first page of said record, and that there shall be inserted in place of said title the words "Title of Court and Cause"; also, that the endorsement on all papers, except the date of the Clerk's filing thereof, shall be omitted. The admission of service need not be printed. Also, the verification of all pleadings

may be omitted, and the words "duly verified" inserted in place thereof.

JOHN RUSTGARD,  
Attorney General of Alaska,  
And MORTON E. STEVENS,  
Attorneys for Plaintiff and Appellant.  
JOHN A. CLARK,  
Attorney for Defendant and Appellee.

Filed Nov. 13, 1929. [29]

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CERTIFICATE OF CLERK U. S. DISTRICT  
COURT TO TRANSCRIPT OF RECORD.

United States of America,  
Territory of Alaska,  
Fourth Division,—ss.

I, Robt. W. Taylor, Clerk of the District Court, Territory of Alaska, Fourth Division, do hereby certify that the foregoing (*following*,) consisting of 32 pages, constitutes a full, true and correct transcript of the record on appeal in Cause No. 3198, entitled Territory of Alaska, Plaintiff, vs. First National Bank of Fairbanks, a Corporation, Defendant, and was made pursuant to and in accordance with the praecipe of the plaintiff filed in this action, and by virtue of the said appeal and citation issued in said cause, and is the return thereof in accordance therewith, and I certify that the stipulation relative to printing record, admission of service of papers on appeal, citation on appeal

and order extending time to file record and docket cause annexed hereto, are the originals thereof.

And I do further certify that the index thereof, consisting of page number i is a correct index of said transcript of record, and that the list of attorneys, as shown on page number ii, is a correct list of the attorneys of record; also that the cost of preparing said transcript of this certificate, amounting to \$14.35, has been paid to me by counsel for appellant in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said court this 27th day of November, 1929.

[Seal] ROBT. W. TAYLOR,  
Clerk of the District Court, Territory of Alaska,  
Fourth Division. [32]

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[Endorsed]: No. 6010. United States Circuit Court of Appeals for the Ninth Circuit. Territory of Alaska, Appellant, vs. First National Bank of Fairbanks, a Corporation, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Territory of Alaska, Division Number Four.

Filed December 9, 1929.

PAUL P. O'BRIEN,  
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

